



VIA ECF

Hon. Jonathan Feldman, United States Magistrate Judge  
Western District of New York  
100 State Street  
Rochester, New York 14614

Your Honor,

The City Defendants object to any extension of the current deadline in this matter. Plaintiff's counsel has been in possession of critical evidential disclosures for nearly two years, inclusive of all documentation provided in support of a comprehensive motion to dismiss filed by Defendants on August 28, 2017. (See Docket #11). During my recent correspondence with Mr. Shields I did not object to adjourning mediation until April of 2019. However, the Mediator, Mr. Modica, has shown a great deal of patience in his effort to schedule mediation to fit around the Plaintiff's counsel's schedule for over six (6) months. Having finally nailed down a date, Plaintiff now seeks to opt out entirely. As the Court well knows, mediation is an important tool in calibrating the parties' expectations and moderating respective postures. In that vein, City Defendants oppose "opting out" of same.

Moreover, Plaintiff has long been in possession of evidence provided by the City and necessary to prosecute his claims. There is simply no reason Plaintiff has not prosecuted his claims through timely discovery. Counsel is currently attempting to reset discovery to pursue a fishing expedition regarding unrelated, personnel matters inclusive of each and every use of force claim irrespective of disposition, time, place or circumstance. Defendants refer the Court to the attached Decision which, though not binding on this Court, is both instructive, as well as supportive of several cases in the Second Circuit regarding fishing through police personnel records. The Plaintiff should not be permitted to violate the Court's scheduling order to engage in such unfocused and invasive discovery. Moreover, same should not be done via a letter, but rather formal motion.



Respectfully,

s/Spencer L. Ash, Esq.